

REMARKS

The Office Action has been carefully reviewed. Claims 1-31 are pending. No claims have been amended. Claims 1-31 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent Application Publication No. 2002/0077964 to Brody *et al.* ("Brody"). See Office Action, page 3. Applicant responds as follows.

I. Objections to the Drawings.

The Examiner objects to Figs. 1 and 2 because the figures are allegedly not labeled with names. See Office Action at page 2. The Examiner has not provided any citation in support of the assertion that correction of the drawings would require inclusion of names in addition to reference numerals. Nevertheless, in an effort to expedite the prosecution of the present application, Applicant has amended the figures to include names in addition to the reference numerals. The amendments are supported by the specification. No new matter is added.

Applicant has submitted replacement drawing sheets for Figs. 1 and 2 and respectfully requests that the drawings be accepted. See Appendix A.

II. Rejections Under 35 U.S.C. § 102.

Claims 1-31 have been rejected as allegedly unpatentable under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent Application Publication No. 2002/0077964 to Brody *et al.* ("Brody"). See Office Action, page 3.

Claim 14 of the present application recites "receiving information related to personal identification information of a consumer, the received consumer personal identification information being transmitted **regardless of a request by the consumer to transmit the consumer personal identification information.**" In sharp, irreconcilable contrast, Brody acts as an agent of a consumer and **requires** a consumer inquiry. Brody recites

Because the present invention acts on behalf of consumer's the administrator of the present invention can be considered an agent of the consumer. Acting as an agent of the consumer, the consumer's credit files can be retrieved based upon a consumer inquiry, because the purpose of the inquiry is for the consumer's primary benefit. **According to the present invention, the system and method do not provide the customer's credit information to merchants or other entities, unless a consumer wishes to enter a contract with a particular entity,** as described below.

Brody, paragraph 66, lines 1-10 (emphasis added). The Office asserts that "receiving

information related to personal identification information of a consumer, the received consumer personal identification information being transmitted regardless of a request by the consumer to transmit the consumer personal identification information” is disclosed by Brody. *See* Office Action, page 3. In support of its assertion, the Office relies on lines 18-20 of paragraph 62 which recite “[a]ccording to one aspect of the invention, the system of the present invention can request credit reports from any credit bureau....” *See* Office Action, page 4 (citing paragraph 62, line 18-20, paragraph 64 and figure 3). Even if Brody discloses requesting credit reports from any credit bureau, and the Applicant does not so concede, this fails to disclose “personal identification information being transmitted **regardless** of a request by the consumer.” In fact, throughout Brody, it is emphasized that “[t]o receive merchant offers, **consumers must give permission** to look at the consumer’s credit information, such as credit reports maintained by credit bureaus...” *See* Brody, paragraph 3, lines 10-13 (emphasis added). The Office Action fails to even address this inconsistency. Therefore, as the claim recitation is not disclosed by Brody, the rejection is improper and should be withdrawn.

Furthermore, the citation relied upon by the Office refers to blocks 104 and 106 of Figure 3. Applicant notes that block 100 of Figure 3, which occurs chronologically earlier in the method, recites “authorized/authenticated **consumer requests** credit scoring function.” Similarly the first step in Figure 4 recites “authorized/authenticated **consumer requests** e-privacy function.” Additionally, the first step in figures 5 and 6 require a request from a consumer. Thus, every flowchart in Brody states that as its first step a consumer must request the transmission of information. Brody, as illustrated above, teaches that a consumer is required to provide a request in order to give permission to transmit information. Clearly, Brody fails to disclose “receiving information related to personal identification information of a consumer, the received consumer personal identification information being transmitted **regardless of a request by the consumer to transmit the consumer personal identification information.**” In fact, Brody teaches the opposite. The Office fails to even address this inconsistency. Therefore, as the claim recitation is not disclosed by Brody, the rejection is improper and should be withdrawn. Moreover, one skilled in the art would not have been motivated to modify Brody to meet the claimed inventions. Doing so would change a principle of operation of the reference and render the reference unusable for its intended purpose.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re King, 801 F.2d 1324, 1326 (Fed. Cir. 1986). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Celeritas Tech., Ltd., v. Rockwell Int'l Corp., 150 F.3d 1354, 1361 (Fed. Cir. 1998). Because the Brody fails to teach each and every element of the claimed invention, the Office has failed to establish a prima facie case of anticipation.

Regarding claims 1, 12 and 31, these claims recite subject matter related to claim 14. Thus, the arguments set forth above with respect to claim 14 are equally applicable to claims 1, 12 and 31. Accordingly, it is respectfully submitted that claims 1, 12 and 31 are allowable over Brody for the same reasons as set forth above with respect to claim 14.

Regarding claims 2-11, 13, and 15-30, these claims are dependent upon independent claims 1, 12, and 14 respectively. Thus, since independent claims 1, 12, and 14 should be allowable as discussed above, claims 2-11, 13, and 15-30 should also be allowable at least by virtue of their dependency on independent claims 1, 12, and 14.

CONCLUSION

Applicant respectfully submits that claims 1-31 are in condition for allowance and request allowance of the same.

This Amendment and Response has been filed within two months of the mailing date of the Office Action and it is believed that no fees are due for this filing. If any fees are determined to be due, the Commissioner is hereby authorized to deduct such fees from the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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U.S. Patent Appln. Ser. No. 10/654,091
Amendment and Response to Office Action dated September 19, 2007
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Appendix I - Replacement Drawings

REPLACEMENT SHEET
Appl. No. 10/654,091

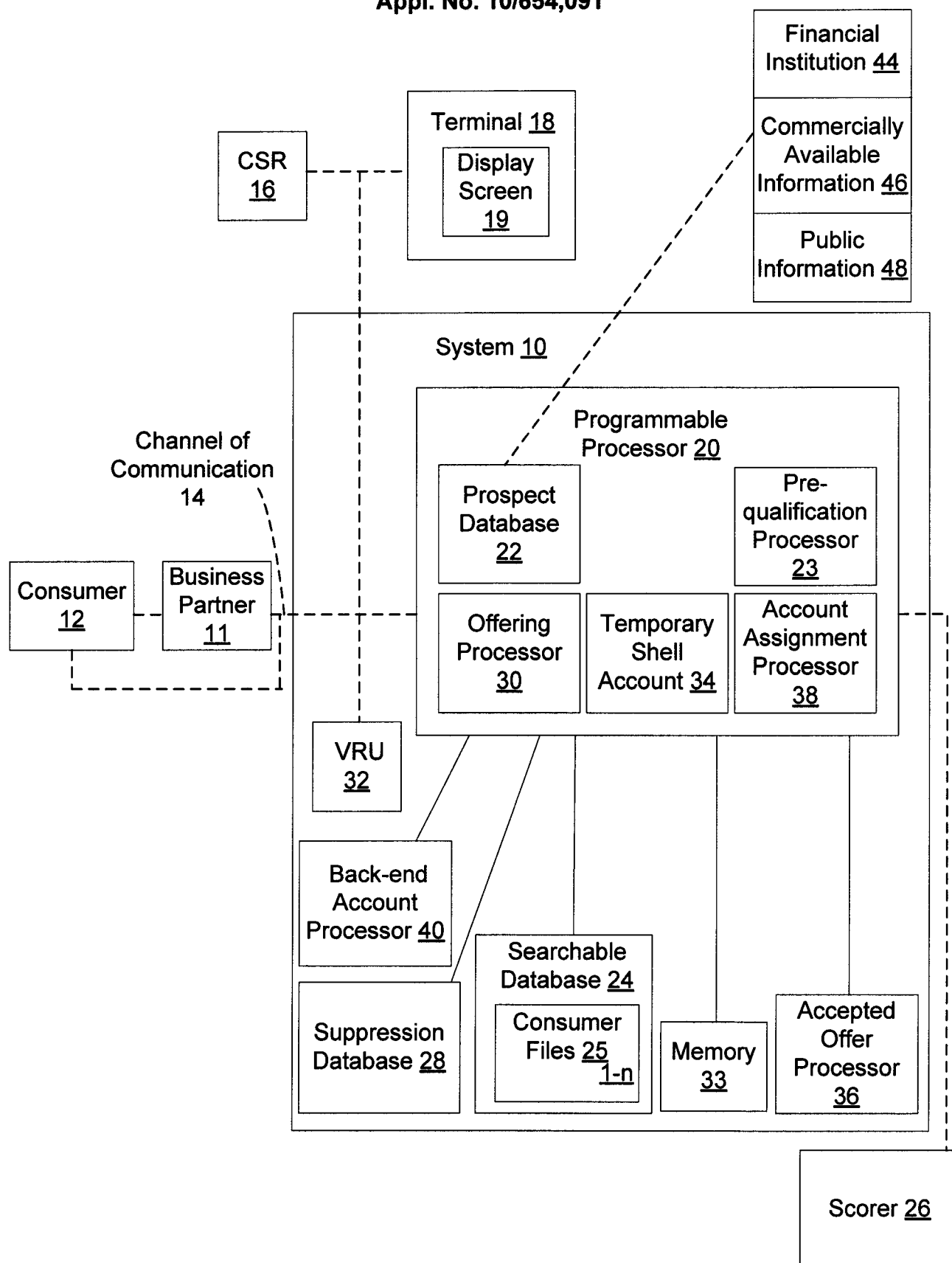


FIG. 1

REPLACEMENT SHEET
Appl. No. 10/654,091

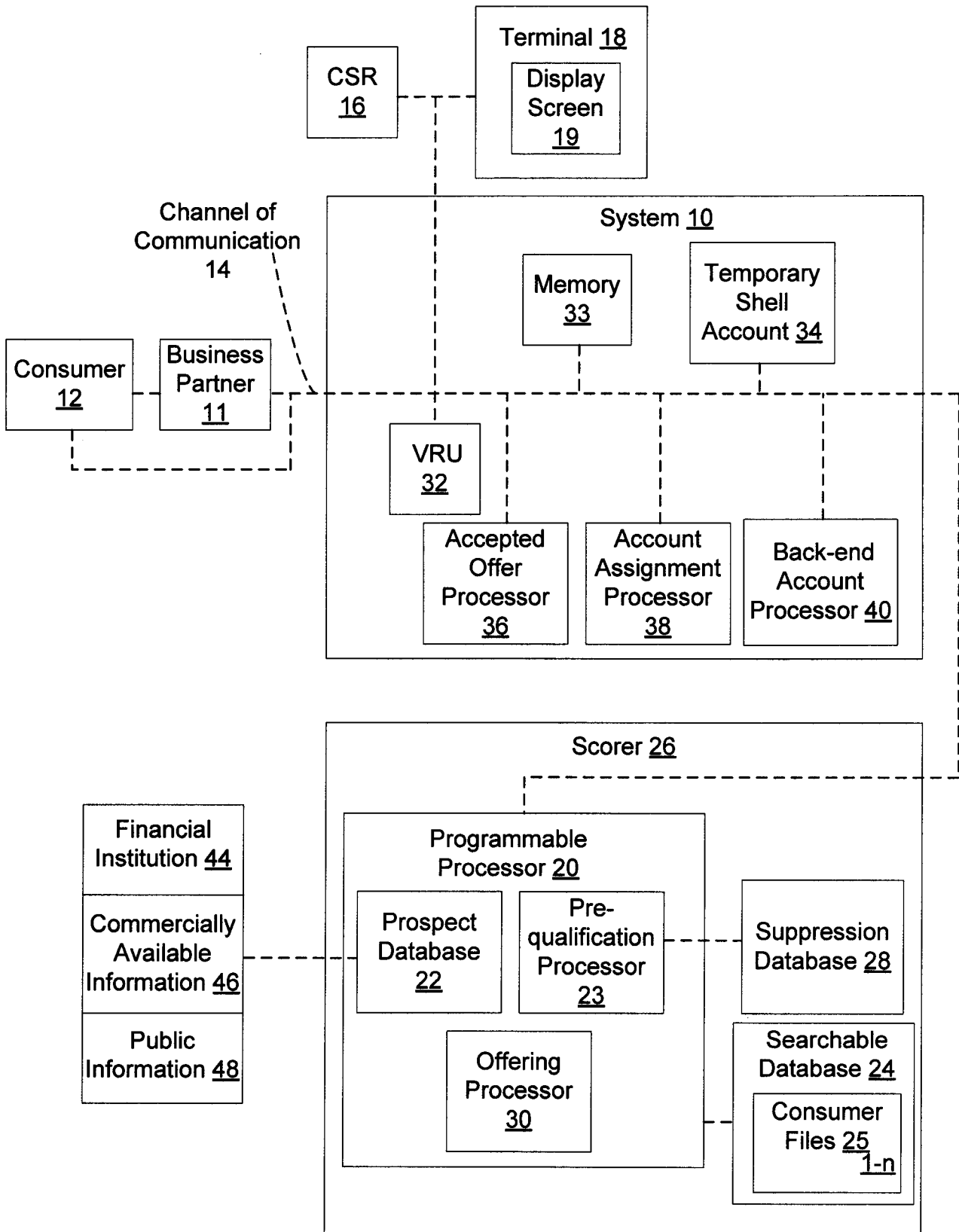


FIG. 2